

REMARKS

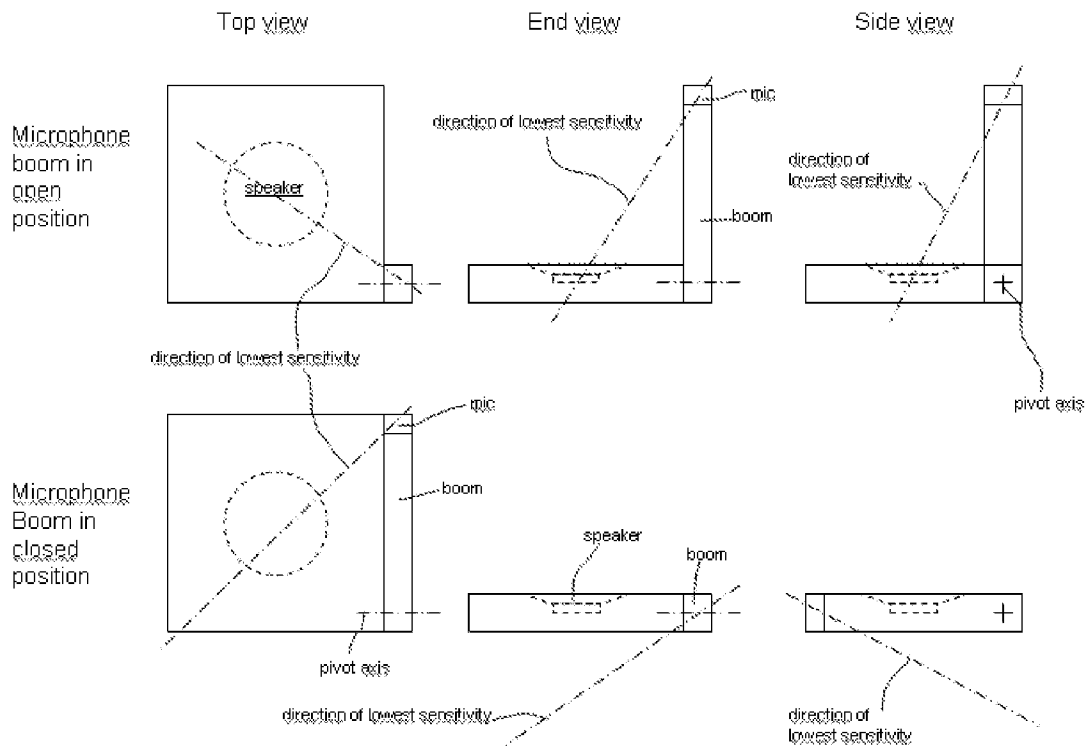
I. Claim Rejections under 35 U.S.C. §103 based on Frank and Bunting

Claims 1, 2, 23, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,991,646 (Frank) in view of U.S. Patent No. 4,237,339 (Bunting).

Claim 1 recites a region of said microphone having a lowest sensitivity is aimed at said speaker when said microphone boom is located in said *first position*, and said region is aimed at said speaker when said microphone boom is located in said *second position* (Emphasis Added). Applicant certainly agrees with the Examiner that Frank does not disclose or suggest the above limitations. As discussed previously, the cited passage (column 1, lines 48-55) of Bunting actually describes that the microphone(s) is located in one position where the null position is directed towards the speaker, but there is nothing in the cited passage that discloses or suggests that a region of a microphone having a lowest sensitivity is aimed at a speaker *when a microphone boom is located in a first position, and when the microphone boom is located in the second position*. Since both Frank and Bunting do not disclose or suggest the above limitations, any purported combination of Frank and Bunting cannot result in the subject matter of claim 1. For at least the foregoing reasons, Applicant respectfully submits that claim 1 and its dependent claims are allowable over Frank, Bunting, and their combination.

According to pages 10-11 of the Office Action, Frank is relied upon for the disclosure of a microphone boom having a first position and a second position, and Bunting is relied upon for the disclosure of a region of a microphone having a lowest sensitivity aimed at a speaker when the microphone boom is in a position, and accordingly, based on Bunting, it would have been allegedly obvious to provide a region of the microphone having a lowest sensitivity to be aimed at the speaker for whatever position the boom is in. Applicant must respectfully disagree. In particular, Applicant respectfully submits that the purported combination of Frank and Bunting in the manner described in the Office Action in fact could not result in the subject matter of claim 1 for the following reasons.

As an initial matter, Applicant notes that Frank discloses a microphone boom 102 that is rotatably secured to one side of a housing, which allows the boom 102 to rotate between an open position and a closed position (see figures 5 and 6 of Frank). A schematic diagram showing the configuration of the device of Frank is provided below. The top three figures show different views of Frank's device when the boom 102 is in the open position, and the bottom three figures show different views of Frank's device when the boom 102 is in the closed position.



As shown in the above diagram, if Bunting's feature (region of a microphone having a lowest sensitivity aimed at a speaker) is incorporated into Frank's device as purported in the Office Action, that would result in the lowest sensitivity direction aimed at the speaker when the boom 102 of Frank's device is in the open position (see the dashed line pointing at the speaker in the top three diagrams). However, because of the manner in which the boom 102 of Frank is coupled to the housing, when the boom 102 is closed, the directional dashed line would no longer be pointing towards the speaker, but instead would be pointing to an area below the speaker (see the bottom three diagrams). Thus, the purported combination of Frank and Bunting would not, and cannot, result in the subject matter of claim 1.

For these additional reasons, Applicant respectfully submits that claim 1 and its dependent claims are allowable over Frank, Bunting, and their combination.

II. Claim Rejections under 35 U.S.C. §103 based on Laurila, Kim, and Bunting

Claims 3-10, 16, and 20-28 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2004/0229658 (Kim) in view of Bunting. Claims 3-22 and 25-28 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2004/0204168 (Laurila) in view of Kim and further in view of Bunting.

Claim 3 recites that a region of said microphone having a lowest sensitivity is aimed at said speaker when said microphone boom is located *in any of said plurality of positions* (Emphasis Added). Claim 22 recites similar limitations. Applicant agrees with the Examiner that Kim does not disclose the above limitations, and that the combination of Laurila and Kim does not disclose the above limitations. According to the Office Action, column 1, lines 48-55 of Bunting allegedly disclose the above limitations. However, as similarly discussed, the cited passage of Bunting actually discloses that the microphone(s) is located in one position where the null position is directed towards the speaker. There is nothing in the cited passage of Bunting that discloses or suggests that the region of microphone with a lowest sensitivity is aimed at a speaker when a microphone boom is located in any of the plurality of positions. Since Laurila, Kim, and Bunting do not disclose or suggest the above limitations, any purported combination of these references cannot result in the subject matter of claims 3 and 22. For at least the foregoing reasons, Applicant respectfully submits that claims 3 and 22, and their respective dependent claims, are allowable over Laurila, Kim, Bunting, and their combination.

According to page 11 of the Office Action, Kim is relied upon for the disclosure of a microphone boom having a first position and a second position, and Bunting is relied upon for the disclosure of a region of a microphone having a lowest sensitivity aimed at a speaker when the microphone boom is in a position, and accordingly, based on Bunting, it would have been allegedly obvious to provide a region of the microphone having a lowest sensitivity to be aimed at the speaker for whatever position the boom is in. Applicant must respectfully disagree. In

particular, Applicant respectfully submits that the purported combination of Kim and Bunting, and the purported combination of Kim, Laurila, and Bunting, in the manner described in the Office Action in fact could not result in the subject matter of claims 3 and 22 for the following reasons.

As an initial matter, Applicant notes that Kim discloses a microphone boom BM that is rotatably secured to one side of a housing, which allows the boom BM to rotate between an open position and a closed position (see figures 3, 61, and 6b of Kim). Figures 3 and 6a of Kim are reproduced below. Figure 3 includes a markup showing an axis pointing from a microphone to a speaker. The speaker of figure 3 is also reproduced in figure 6a showing the speaker in the same position relative to the housing. Figure 6a also includes the same axis shown in figure 3, showing the position of the axis when the boom BM is in the closed position.

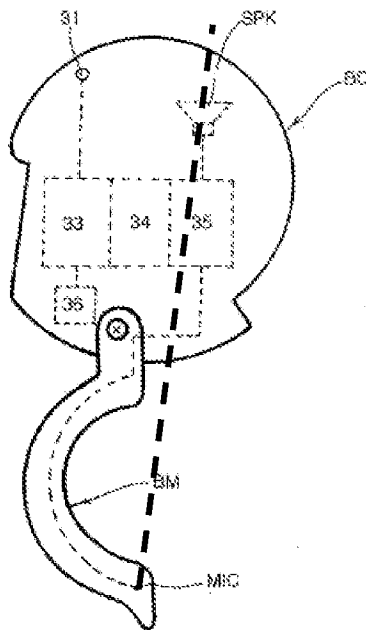


FIG. 3

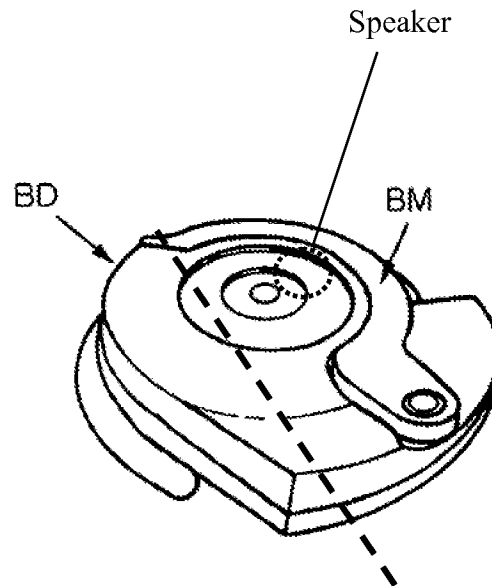


FIG. 6a

As shown in the above diagram, if Bunting's feature (region of a microphone having a lowest sensitivity aimed at a speaker) is incorporated into Kim's device as purported in the Office Action, that would result in the lowest sensitivity direction aimed at the speaker when the boom BM of Kim's device is in the open position (see the dashed line pointing at the speaker in the

above marked-up diagram on the left). However, because of the manner in which the boom BM of Kim is coupled to the housing, when the boom BM is closed, the directional dashed line would no longer be pointing towards the speaker (see the dashed line in the above marked-up diagram on the right). Thus, the purported combination of Kim and Bunting, and the purported combination of Kim, Laurila, and Bunting, would not and cannot, result in the subject matter of claims 3 and 22. For these additional reasons, Applicant respectfully submits that claims 3 and 22, and any claims depending therefrom, are allowable over Kim, Laurila, Bunting, and their combination.

Claims 3 and 22 also recite an *unidirectional* microphone (Emphasis Added). According to pages 3 and 5 of the Office Action, Kim and Laurila allegedly disclose the above limitations. However, Applicant respectfully notes that this is not true because neither one of Kim and Laurila mentions microphone directionality at all, much less, discloses an unidirectional microphone.

According to pages 11-12 of the Office Action, it is inherent or obvious that the microphone can comprise a unidirectional microphone “as a specific type is not specifically disclosed in the prior art, therefore suggesting that a variety of microphone types can be used.” However, Applicant respectfully notes that the inherency argument is improper because as the Office Action admits, there are a variety of microphone types that can be used (e.g., a microphone may be unidirectional, bi-directional, omni-directional, etc.). Thus, a mere disclosure of a “microphone” does not mean that a “unidirectional microphone” is also disclosed. In other words, there can be no inherent disclosure of a “unidirectional microphone” because not every microphone is a unidirectional microphone.

Also, to the extent that the Examiner maintains that it is obvious to modify the teaching of Kim and Laurila to include a “unidirectional microphone,” Applicant respectfully requests that the Examiner provides some basis for such modification. Note that the prima facie case of any § 103 rejections cannot be sustained based on only a conclusory statement that the modification is obvious.

For these additional reasons, Applicant respectfully requests that the § 103 rejections based on the combination of Kim and Bunting, and the § 103 rejections based on the combination of Laurila, Kim, and Bunting, be withdrawn.

III. Double patenting rejections

Claims 3-22 and 25-28 stand rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1-33 of U.S. Patent No. 7,620,433 (Bodley) in view of Bunting. Applicant herein subjects a terminal disclaimer to overcome the double patenting rejections.

CONCLUSION

If the Examiner has any questions or comments regarding this response, please contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **GNN P743 US**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **GNN P743 US**.

Respectfully submitted,

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